

Amendment No. 1 to HB2915

Lundberg
Signature of Sponsor

AMEND Senate Bill No. 2714*

House Bill No. 2915

by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following language as a new, appropriately designated subdivision:

() Failing to comply with title 62, chapter 6, part 6;

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

62-6-601. As used in this part, unless the context otherwise requires:

(1) "Agent" means any officer, director, owner, employee, contractor or any other person authorized to act on behalf of a residential roofing services provider;

(2) "Contract" means a contract between a person and a residential roofing services provider for the provision of goods or services related to the repair or replacement of a roof system in this state the costs of which are to be paid, or are anticipated to be paid, from the proceeds of a property and casualty insurance policy;

(3) "Emergency repairs" means goods or services provided for the purpose of making urgent and necessary repairs to the roof system of residential real estate if, without such repairs, damage to the residential real estate would occur;

(4) "Person" means an individual or entity;

(5) "Residential real estate" means a new or existing building constructed for habitation by one (1) to four (4) families, and includes the building's garage, even if the garage is detached from such building;

(6) "Residential roofing services provider":

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(A) Means a person in the business of contracting or offering to contract with owners of residential real estate to repair or replace roof systems, or the agent of such person; and

(B) Does not mean a person engaged in the demolition of a structure or cleanup of construction waste and debris that contains roofing material; and

(7) "Roof system" means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, or insulation for residential real estate.

62-6-602.

(a) If a person enters into a contract and the person has received written notice from the person's insurer that all or any part of the claim or contract is not a covered loss under an insurance policy, then the person may cancel the contract as provided in subsection (b).

(b) To cancel a contract, a person shall:

(1) Provide a written notice of cancellation to the residential roofing services provider prior to midnight on the third business day after receipt of a written notice of no or partial coverage from the insurer; and

(2) Mail or deliver the written notice of cancellation to the residential roofing services provider at the business address, facsimile number, or electronic mail address provided by the residential roofing services provider pursuant to § 62-6-603.

(c) A written notice of cancellation:

(1) Need not contain particular language provided that it is signed and dated by the person and indicates, by any form of written expression, the intent of the person not to be bound by the contract; and

(2) Shall be effective upon receipt by the residential roofing services provider. However, if the person:

(A) Mails the written notice of cancellation, postage prepaid and properly addressed to the residential roofing services provider, then the cancellation is effective upon the date of the postmark; or

(B) Delivers the written notice through facsimile transmission properly addressed to the facsimile number or electronic mail address of the residential roofing services provider, then the cancellation is effective upon the time the person transmits the facsimile.

62-6-603.

Prior to entering into a contract, a residential roofing services provider shall, in writing, furnish a person with:

(1) The residential roofing services provider's:

(A) Business mailing address for cancellation purposes;

(B) Telephone number;

(C) License or registration number of any contractor, home improvement contractor, or public adjuster license or registration held in this or any other state; and

(D) Electronic mail address or facsimile number for cancellation purposes, if available;

(2) A detailed description of all damage or repairs to be claimed or covered by the contract and the location of such damage;

(3) A written statement in boldface type of a minimum size of ten (10) points, containing language substantially similar to the following:

You may cancel this contract at any time before midnight on the third business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under your insurance policy. This right to cancel is in addition to any other rights of cancellation which may be found in state or federal law or regulation. See the attached notice of cancellation form for an explanation of this right.

; and

(4) A form in duplicate, captioned "NOTICE OF CANCELLATION," attached in an easily detachable manner to the contract, that contains in boldface type of a minimum size of ten (10) points the following statement or language substantially similar:

NOTICE OF CANCELLATION

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under your insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other signed and dated written notice to _____(name of residential roofing services provider) at _____(business mailing address) or _____ (if available, facsimile number or electronic mail address of residential roofing services provider) at any time prior to midnight on the third business day after you have received such notice from your insurer. If you cancel, any payments made by you under the contract, except those for emergency repairs already performed by the residential roofing services provider, will be returned to you within ten (10) business days following receipt by the residential roofing services provider of your cancellation notice.

I HEREBY CANCEL THIS TRANSACTION.

_____ (date)

_____ (person's signature).

62-6-604.

(a) No residential roofing services provider shall require any payments from a person pursuant to a contract until the person has received written notice from the insurer that the contract or claim is fully covered or the three-day cancellation period required pursuant to this part has expired.

(b) Within ten (10) business days after a person cancels a contract in accordance with this part, the residential roofing services provider shall tender to the:

(1) Payor any payments, partial payments, or deposits made to the residential roofing services provider except those made pursuant to subsection (c); and

(2) Person any note or other evidence of the person's indebtedness to the residential roofing services provider except indebtedness incurred pursuant to subsection (c).

(c)

(1) Notwithstanding subsection (a), if the residential roofing services provider has made any emergency repairs, acknowledged by the contracting person in writing to be necessary to prevent damage to the residential real estate, then the residential roofing services provider shall be entitled to collect the amount due from the person for the emergency repairs at the time the repairs are rendered. Any provision in a contract that requires the payment of any fee for any good or service except those provided in relation to emergency repairs shall not be enforceable against any person who has canceled a contract in accordance with this part.

(2) No residential roofing services provider shall misrepresent that emergency repairs are necessary to prevent damage to the residential real estate owned or possessed by such person.

62-6-605.

No residential roofing services provider shall represent or negotiate on behalf of, or offer or advertise an offer to represent or negotiate on behalf of, an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of a roof system on the residential real estate unless the residential roofing services provider holds a valid public adjuster license issued in accordance with title 56, chapter 6, part 9.

62-6-606.

A violation of this part is an unfair or deceptive act or practice affecting the conduct of trade or commerce under the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and, as such, the private right of action remedy under the Tennessee Consumer Protection Act of 1977 shall be available to any person who suffers an ascertainable loss of money or property, real, personal or mixed, or any other article, commodity or thing of value wherever situated as a result of the violation.

SECTION 3. This act shall become effective July 1, 2012, the public welfare requiring it, and shall apply to contracts entered into on or after such date.